

## **REMARKS/ARGUMENTS**

Claims 24, 27-34, 39, 41-44, 48-51, 53-54 and 58-60 are under examination with entry of the present Amendment. Claims 39, 48-51, and 58 have been amended to define the subject matter which Applicants regard as the invention and for improved clarity. Claims 59 and 60 have been added to define the invention more specifically. Support for claim 60 is found from page 8, line 35, to page 9, line 9. Claims 1-23, 25-26, 35-38, 40 have been previously canceled without prejudice. Claims 45-47, 52, and 55-57 have previously been withdrawn. Applicants reserve the right to file one or more divisional or continuation applications to pursue the subject matter defined in the withdrawn and canceled claims. None of the amendments made herein constitutes the addition of new matter.

### Claim Rejection under 35 U.S.C. 102:

Claim 39 is rejected under 35 U.S.C. 102(b) as allegedly anticipated by Maihle et al. Without acquiescing to this rejection, claim 39 has been amended to specify that the truncated ErbB1 ectodomain further lacks at least the third to seventh modules of the ErbB1 CR2 domain such that it has an increased binding affinity for at least one ErbB1 ligand when compared to the full length ErbB1 ectodomain. The claimed invention is not taught by Maihle et al. Similarly, the truncated ErbB1 ectodomain as defined in claim 59 and a dimer of the chimeric or fusion protein containing such ectodomain as defined in claim 60 are not taught by Maihle et al. Applicants emphasize that the claimed invention defines truncated ErbB1 ectodomains with enhanced binding affinity compared to the full length ErbB1 ectodomain. Nothing in the cited reference teaches the invention. Withdrawal of the rejection under 35 U.S.C. 102(b) is respectfully requested.

### Claim Rejection under 35 U.S.C. 101:

Claims 27-34, 39, 41-44, and 58 are rejected under 35 U.S.C. 101 on the ground that the claimed invention is allegedly directed to non-statutory subject matter.

Without acquiescing to this rejection and in the interest of advancing prosecution of this application, the claims at issue have been amended to recite the term, "isolated". Applicants submit that with the entry of this Amendment, this rejection is no longer applicable.

Allowable subject matter:

Claims 48-51, 53, and 54 are objected to as being dependent upon a rejected base claim. Claim 58, from which the objected claims depend, has been amended and thus this objection is no longer relevant.

In summary, based on the above, Applicants respectfully request withdrawal of the rejections under 35 U.S.C. 101 and 102.

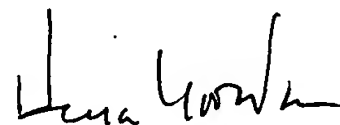
Conclusion:

In view of the foregoing amendments and arguments, it is submitted that this case is in condition for allowance, and passage to issuance is respectfully requested.

If there are further issues related to patentability, the courtesy of a telephone interview is requested, and the Examiner is invited to call to arrange a mutually convenient time.

It is believed that this amendment does not necessitate the payment of any additional fees under 37 C.F.R. 1.16-1.17. If this is incorrect, however, please deduct from Deposit Account No. 07-1969 the appropriate fee for this submission and any extension of time required.

Respectfully submitted,



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